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August 3, 2004

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

Re: IP-Enabled Services, WC Docket No. 04-36

Dear Ms. Dortch:

Recently, Verizon has submitted extensive evidence describing the state of competition for high-capacity services in the largest MSAs where Verizon provides service as the incumbent local exchange carrier.[1] This evidence, which is enclosed, includes detailed maps graphically depicting the scope of competition as well as white papers, declarations, and other supporting materials and is relevant to this proceeding for the following reasons.

First, the evidence demonstrates that competing providers are not dependent upon incumbent special access services to serve customers in these markets. Contrary to Time Warner Telecom's claims that "[t]here are no non-ILEC sources of supply for the vast majority of high-capacity loops demanded by all but the smallest business customers,"[2] these materials demonstrate that competing providers have deployed their own loop and transport facilities to tens of thousands of office buildings in these MSAs. The market realities are that:

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[1] *See* Letter from Dee May, Verizon, to Marlene H. Dortch, FCC, CC Docket Nos. 01-338, 98-147 and 96-98 at 10, 15 (filed June 24, 2004); Letter from Michael E. Glover, Verizon, to Marlene H. Dortch, FCC, CC Docket Nos. 01-338, 98-147 and 96-98 at 19, 29 (filed July 2, 2004).

[2] *See* Comments of Time Warner Telecom, filed May 28, 2004, at 9. *See also* MCI Comments at 19 ("Incumbent LEC special access services . . . are the primary means by which IP-based services are provided to enterprise customers."; Comments of Z-Tel Communications, Inc. at 14 ("Z-Tel can today only turn to *one* ubiquitous source – the ILEC – for local, 'last-mile' transmission facilities (principally high-capacity loops and enhanced extended links ('EELs')) in each metropolitan area where it wishes to provide service.") (emphasis in original).

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- demand for high capacity services is highly concentrated with 80 percent of the demand for high capacity services in just eight percent of wire centers;
- competing providers have targeted deployment of their facilities to serve that demand, with an average of 20 competitor networks in the top 50 MSAs in the country;
- at least one competing provider has conceded that it earns the "majority of [its] revenue .. .exclusively through [its] own network facilities ..." and boasts that "[w]hile [RBOCs] have lots of fiber deployed, I don't know that they have more buildings connected than we do in all cases;"
- Time Warner Telecom itself operates local fiber that connects to at least 3,800 buildings; MCI operates its own networks in 28 of the top 30 MSAs; and
- contrary to Time Warner Telecom's claims that "there are no widespread intermodal end user connections in the business market,"[3] competing providers are using fixed wireless and cable to reach customers, with 40 percent of large businesses, 29 percent of mid-sized businesses, and 23 percent of small businesses using fixed wireless for at least some high-capacity services and 41 percent of large businesses, 32 percent of mid-sized businesses, and 44 percent of small business using cable modem service for some high-capacity services.

As this evidence and the maps attached at tabs A, D and E show, competing providers have deployed their own facilities wherever significant demand for high capacity services exists.

Second, the evidence shows that rather than inhibiting competition –as MCI claims,[4] Verizon special access is facilitating additional competition for high capacity services. To the extent competing providers have chosen to use incumbent special access services to reach customers, they have competed successfully for retail customers of all types and sizes. As the maps attached at tabs A, E, and F show, competing providers are using Verizon special access services not only to extend the reach of their networks in outlying areas where competing facilities have not yet been deployed, but also in areas that have significant deployment of competitive facilities. This means that carriers can successfully compete with CLEC-fiber by purchasing special access services and using them as the basis for some or all of their high capacity services to end-users. These carriers are successfully using special access by purchasing these services at steep volume and term discounts of 35 to 40 percent off base rates and then using these circuits to provide high-capacity services to their own customers. And competing providers are using special access to serve not only large enterprise customers but also small and medium-sized businesses such as antique dealers, book stores, dry cleaners, florists, gas stations, hair dressers, and travel agents to name a few.

Third, other providers not only are able to compete successfully, but actually dominate key market segments. Indeed, competing providers such as AT&T dominate the large enterprise segment of the market, the most valuable segment of the telecom industry and a market that accounts for the

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3 Time Warner Telecom Comments at 10.

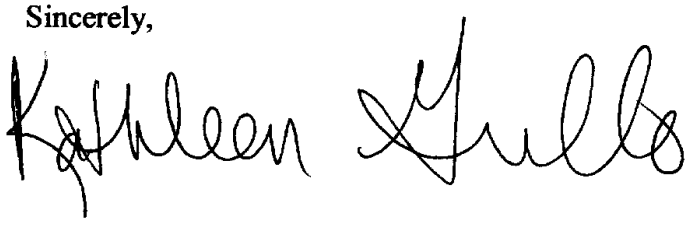
4 MCI Comments at 19-20.

vast majority of high-capacity demand. AT&T, MCI, and Sprint account for nearly half of all revenues from larger enterprise customers and are the primary service provider for nearly three-quarters of larger corporate accounts. In contrast, within its region, Verizon accounts for only 9 percent of the $28 billion spent on network-related service by the 400 companies with the highest annual telecommunications expenditures. Accordingly, Royce Holland explains that "[t]he large corporate enterprise market ... is all but irrelevant to the debate over competition policy because there are no bottleneck facilities."

In short, there is extensive competition to provide high capacity services to business customers of all shapes and sizes, and IP-enabled service providers have a number of competitive alternatives to ILEC special access. In addition, however, the fact that competitors are using special access to compete successfully for customers both in areas where competitive facilities have not been widely deployed but more importantly in areas where competitive facilities have been deployed and competition is thriving proves that the rates competitors are paying for special access services are competitive. Under these circumstances, there simply is no justification for the Commission to require wholesale access to ILEC broadband transmission facilities, as Time Warner Telecom and Z-Tel request, or to revisit pricing flexibility for special access, as MCI requests.

Please do not hesitate to contact me with any questions.

Sincerely,



Enclosures

cc: Darryl Cooper
Russell Hanser
Jeremy Miller
Terri Natoli
Thomas Navin
Christi Shewman
Julie Veach

DOCKET NO. 04-36

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